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| 09/836,152 | 04/17/2001 | Sara H. Basson | YOR9-2001-0066US1 (728-19 | 7352 |

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| EXAMINER |
|---|
| JARRETT, SCOTT L |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3623 | |

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | Application No. | Applicant(s) |
| --- | --- | --- |
| **Office Action Summary** | 09/836,152 | BASSON ET AL. |
| | Examiner | Art Unit | |
| | Scott L. Jarrett | 3623 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on _22 December 2005_.

2a)☐ This action is **FINAL**.    2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) _1-19_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-19_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _07 July 2005_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 7-05)          Office Action Summary          Part of Paper No./Mail Date 02162006

## DETAILED ACTION

1.      This Non-Final office action is in response to Applicant's Request for Continued

Examination filed December 22, 2005.  Applicant's amendment added new claim 19.

Currently claims 1-19 are pending.


### *Response to Arguments*

2.      Applicant's arguments filed December 22, 2005 have been fully considered but

they are not persuasive. Specifically Applicant argues that two of the of the references

used to at least partially support some of the officially noticed facts do not qualify as

prior art due to either the publication date (Ramakrishnan et. al. Database Management

Systems) or incomplete citation information (Burrelle's Information Office).


        Regarding Burrelle's Information Office Product Brochure entitled "Save Time

With The Ultimate Media Monitoring Software", the product brochure was retrieved from

an archived version ((Archive.org Wayback machine) of Burrelle's web site

(Burrelles.com) dated December 2000as cited in the Notices of References Cited

provided on October 11, 2005.  A link to the "BIO brochure", dated as being publicly

available via the Burrelles.com web site on December 6, 2000, is on Page 2 of the

Burrelles.com Web Pages, cited as Reference V1 on October 11, 2005, and reproduced

below (emphasis added).

Burrelle's Information Office (BIO)

• Learn quickly. Easy to use web-like design
• Maximize your PR investment
• Expert training and technical support
• Save hours by using BIO's automated clip books
and clip reports

The BIO brochure is available for download as an Adobe Acrobat .pdf file.
If you do not have Adobe Acrobat, click here to download it.

## Burrelle's
### INFORMATION SERVICES

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As per the applicant's argument that Ramakrishnan et al., Database

Management Systems Third Edition (the first/second editions being released in 1998

and 2000 respectively) fails to be a proper reference for supporting the officially noticed

facts the examiner respectfully disagrees.

The provided passages of Ramakrishnan et al., Chapter 1 – Overview of

Database Systems - Pages 3-9, clearly provide merely a basic overview of database

systems in general wherein the overview includes the historical usage (1980s, 1990s) of

such database systems, the discussion of which simply represents knowledge

possessed by those skilled in the art prior to the filing of the instant application therefore

Ramakrishnan et al. is a proper supporting reference for the officially noticed fact(s).


Further it is noted that Applicant's attempt at traversing the Official Notice

findings as stated in the previous Office Action(s) (Remarks filed December 22, 2005;

Last Paragraph, Page 7) is inadequate.  Adequate traversal is a two-step process.

First, Applicant's must state their traversal on the record.  Second and in accordance

with 37 C.F.R. 1.111(b) which requires Applicant's to specifically point out the supposed

errors in the Office Action, Applicant's must state why the Official Notice statement(s)

are not to be considered common knowledge or well known in the art.

In this application Applicant's have failed both steps since they have failed to

positively state their desire to traverse the officially noticed facts and failed to argue why

the Official Notice statement(s) are not to be considered common knowledge or well

known in the art. Because Applicant's' traversal is inadequate, the Official Notice

statement(s) are taken to be admitted as prior art. See MPEP 2144.03.

Specifically it has been established that it was old and well known in the art at the

time of the invention:

- to store a plurality of information (data) in a database provides a convenient

mechanism for accessing stored information;

- to include of instructions on how to use a system (software product, help files,

tutorials, training manual, sample files, and the like) thereby ensuring users of the

product can successfully and properly utilize the system/product; and

- that there exists a plurality of methods (systems, techniques, tools, etc.) for

scanning and collecting publicly available information in order to identify items (people,

articles, broadcasts, etc.) of interests (e.g. media monitoring services) wherein these

services manage databases of information (newspapers, magazines, television, radio,

etc.) that enable users to search, identify and collect a plurality of information/data, (e.g.

transcripts of video/radio broadcasts).

### *Title*

3.    The title of the invention is not descriptive.  A new title is required that is clearly

indicative of the invention to which the claims are directed.

The following title is suggested: System and Method for Adapting an Automatic

Speech Recognition Product For Endorsement By A Selected High Profile Person.


### *Claim Objections*

4.    Claim 3 is objected to under 37 CFR 1.75(c), as being of improper dependent

form for failing to further limit the subject matter of a previous claim.  Applicant is

required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper

dependent form, or rewrite the claim(s) in independent form.

Both Claim 3 and Claim 1, from which Claim 3 depends, recite the same

limitation that the sample data is stored in a data storage device prior to the adaptation

of the automatic speech recognition product.


Claim 12 is objected to because of the following informalities:  "simple data" is

recited instead of the intended "sample data".  Appropriate correction is required.


Claim 18 is objected to because of the following informalities:  "available material

for:" is recited instead of the intended "available material for".  Appropriate correction is

required.

## *Claim Rejections - 35 USC § 112*

5.      The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6.      Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.


        Regarding independent claims 1 and 11 the disclosure fails to adequately teach how one (person and/or system) would "determine whether the product is an automatic speech recognition (ASR) product" and without this disclosure one skilled in the art would be unable to practice the invention without undue experimentation.

        The sole disclosure, found by the examiner, describing the step of determining whether a product is an ASR product was found on Page 7, Paragraph 2 (reproduced below).

> "At step 17, a determination is made if the selected product is an ASR product. If the selected product is an ASR product then the verbal data of the sample adaptation data is transcribed at step 18. Otherwise the transcription at step 18 is skipped."

        For the purposes of examination the examiner best understands the step of determining whether a product is a speech recognition product as being the step in which the person/system utilizing the system/method "determines" (decides,

understands, etc.) that the selected product is an ASR wherein the determination as to whether or not a product is an ASR product is an inherent characteristic/attribute of the product of which the person/system selecting the product is very well aware.

Specifically the person/entity who selects a product, for example the developer/distributor/manufacturer of the product, would inherently know the type of product (speech/voice recognition, image/face recognition, etc.) they had created for without such knowledge it would be impossible to create, use, promote, advertise or market the product.

For example a company selecting one of its own products to promote would inherently know whether the product selected for promotion is an ASR product or not.

7.    Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding independent claims 1 and 11 the disclosure fails to adequately teach or disclose how one (person and/or system) "determine whether the product is an automatic speech recognition (ASR) product" or the best mode (by hand, computer or like device) to "determine whether the product is an automatic speech recognition (ASR)

product" and without this disclosure one skilled in the art would be unable to practice the

invention without undue experimentation.

8.      The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

9.      Claims 7, 11 and 19 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

Regarding Claim 7, Claim 7 recites the limitation "the adapted product" in 4.

There is insufficient antecedent basis for this limitation in the claim.

Examiner interpreted the claim to read "the product" for the purposes of

examination.

Regarding Claim 11, Claim 11 recites the limitation "the selected product" in 11.

There is insufficient antecedent basis for this limitation in the claim.

Examiner interpreted the claim to read "a selected product" for the purposes of

examination.

Regarding Claim 19, Claim 19 recites the limitation "with the endorser" in 19.

There is insufficient antecedent basis for this limitation in the claim.

Examiner interpreted the claim to read "with the selected person" for the

purposes of examination.


### *Claim Rejections - 35 USC § 102*

10.     The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.


11.     Claims 1-4, 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by

Dragon System's NaturallySpeaking product as evidenced by at least the following:

I.  Kay et al., Dragon NaturallySpeaking for Dummies (October 1999), herein

after reference A; and

II. Adler, Alan, Speech Recognition Software, Round II (December 1998/January

1999), herein after reference B.


Regarding Claims 1 and 3 NaturallySpeaking teaches a method and system for

adapting an automatic speech recognition software product (system, voice recognition

system, etc.), have an adaptation module, wherein the system/method comprises:

- providing sample data of a person from a data storage device (reference A:

Pages 111-112; Paragraph 4, Page 114; reference B: Column 2, Paragraph 2, Page 56;

Column 3, Paragraph 1, Page 62);

- accessing (opening, using, viewing, etc.), by the system (adaptation, training

module), the sample data associated with the person (new user wizard, general training,

ongoing training, vocabulary builder, etc.; reference A: Pages 25-29, 33-37; reference

B: Column 1, Paragraph 2, Page 57; Page 62; Figure 3);

- determining whether the software product is an automatic speech recognition

product (system, method, code, program, etc.; this is inherent in a person's decision to

use/purchase the Dragon Naturally Speaking product to transcribe speech and/or

perform other voice recognition tasks/activities; i.e. they selected/purchased precisely

because it is an ASR product);

- transcribing a verbal sample of data from the sample data (i.e. using the ASR

to transcribe an audio file; reference A: Pages 127-129; reference B: Column 1, Page

59); and

- configuring (adapting, training, initializing, etc.) the software product to adapt to

the person by utilizing the system (adaptation/training module, code, program,

subsystem, etc.) and the sample data (recorded audio files, scanned documents,

vocabulary builder, new user wizard, mobile recorder setup, etc.; reference A: Pages

25-29, 33-37, 118; Table 3-1; reference B: Column 1, Paragraph 2, Page 57; Pages 62-

63; Figure 8).


Regarding Claim 2 NaturallySpeaking teaches a method for adapting an

automatic speech recognition software product wherein the software product is provided

to the person (for whom it is trained; e.g. a person purchases the ASR product and uses

it; reference A:  Page 9; reference B:  Column 2, Paragraph 2, Page 55).


Regarding Claim 4 NaturallySpeaking teaches a method for adapting an

automatic speech recognition software product further comprising selecting a person

from a person database (list, spreadsheet, system, etc.) that stores data associated with

the person wherein the associated data includes the sample data associated with the

person (personal speech files, scanned documents, vocabulary builder, recorded

audio/dictation, etc.; reference A: Pages 25-29, 33-37, 118; Table 3-1; reference B:

Column 2, Paragraph 2, Page 56; Column 3, Paragraph 1, Page 62).


Regarding Claim 6 NaturallySpeaking teaches a method for adapting an

automatic speech recognition software product further comprising:

- accessing a person file (database, list, file, system, etc.) that stores data

associated with at least one person wherein the system/data provides instructions for

accessing (opening, viewing, retrieving, using, etc.) the sample data (quick tour, tutorial,

how to, manual, user guide, etc.; reference A:  Pages 38-39, 299-301; reference B:

Column 1, Paragraphs 3-5, Page 58);

- selecting a person from the system (database, list, etc.; reference A: Pages 25-

29, 33-37, 118; Table 3-1; reference B:  Column 2, Paragraph 2, Page 56; Column 3,

Paragraph 1, Page 62);

- retrieving (accessing) data associated with the person (reference A: Pages 25-29, 33-37, 118; Table 3-1; reference B: Column 2, Paragraph 2, Page 56; Column 3, Paragraph 1, Page 62); and

- accessing (opening, viewing, using, retrieving, etc.) the sample data based on the retrieved (accessing) data (reference A: Pages 25-29, 33-37, 118; Table 3-1; reference B: Column 2, Paragraph 2, Page 56; Column 3, Paragraph 1, Page 62).


Regarding Claim 7 NaturallySpeaking teaches a method for adapting an automatic speech recognition software product further comprising:

- tracking use of the product by the selected person (i.e. ongoing training/refinement/correction of the ASR product to the selected person; reference A: Paragraph 1, Page 32; Pages 33-34; Table 3-1; reference B: "How speech recognition works", Page 57; "Increasing Vocabulary", Page 63); and

- storing data in the system (person database, files, memory, etc.) as tracking data associated with the selected person (vocabulary, personal speech files, etc; reference A: Pages 25-29, 33-37, 118; Table 3-1; reference B: "How speech recognition works", Page 57; "Increasing Vocabulary", Page 63).

## *Claim Rejections - 35 USC § 103*

12.    The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

13.    Claims 5 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Dragon System's NaturallySpeaking product as evidenced by at least the following:

I.  Kay et al., Dragon NaturallySpeaking for Dummies (October 1999), herein

after reference A; and

II. Adler, Alan, Speech Recognition Software, Round II (December 1998/January

1999), herein after reference B.

as applied to claims 1-4 and 6-7 above and further in view of Miciak, et al.,

Choosing Celebrity Endorsers (Winter 1994).


Regarding Claim 5 NaturallySpeaking teaches a method for adapting an

automatic speech recognition software product, as discussed above.


While NaturallySpeaking teaches the marketing/promoting of the automatic

speech recognition product (implicit in the commercial sale of the product)

NaturallySpeaking is silent on the specific methods used to promote/market the product

and subsequently does not expressly teach selecting a product to be promoted from a

plurality of products available for promotion as claimed.

Miciak et al. teach selecting a product to be promoted from a plurality of products

available for promotion in an analogous art of promoting the purchase of

products/services for the purposes of persuading consumers to purchase

products/services using high profile persons' such as celebrities as product/service

endorsers (Paragraph 2, Page 1; Paragraphs 2-6, Page 2).

Miciak et al. teach the well-known and wide spread use of celebrity

endorsements to promote the use of one or more selected products/services as well as

teach a method for promoting the use of a product comprising researching, identifying,

listing and selecting, using one or more selection criteria, one or more high profile

persons for promoting/endorsing one or more selected products/services (Paragraph 2,

Page 1; Last Paragraph, Page 3; Paragraphs 2, 4-8, Bullets 1-5, Page 4; Paragraph 7,

Page 8).

Miciak et al. further teach that the method for promoting the use of a

product/service includes capturing and using the selected high profile person's feedback

in an advertisement for the selected product (e.g. testimonials; Paragraph 6, Page 2;

Paragraph 7, Page 6) as well as compensating endorsers for their promotion of the

product/service (hire, acquire, contract, etc.; Paragraph 7, Page 2; Paragraph 6, Page

5; Paragraph 4, Page 7).


It would have been obvious to one skilled in the art at the time of the invention

that the method/system for adapting an automatic speech recognition software product

as taught by NaturallySpeaking would have benefited from employing any of a plurality

of methods/systems to market/promote the use of the commercial ASR product

including but not limited to using celebrity endorsements/testimonials to promote the

use of the ASR product in view of the teachings of Miciak et al.; the resultant method

assisting in promoting the sale of the ASR product, which is purely known, and an

expected result from celebrity endorsements of what is known in the art (Miciak et al.:

Paragraph 2, Page 1; Paragraph 3, Page 2; Paragraph 4, Page 9).


Regarding Claim 8 NaturallySpeaking teaches a method for adapting an

automatic speech recognition software product further comprising:

- obtaining feedback data (corrections, continued training, vocabulary builder,

etc.) from the selected person regarding the selected person's use of the product

(reference A: Paragraph 1, Page 32; Pages 33-34; Table 3-1; reference B: "How

speech recognition works", Page 57; "Increasing Vocabulary", Page 63); and

- storing the feedback data in the person database (system, subsystem, set of

files, electronic storage, etc.) in association with the selected person (personal speech

files; reference A: Pages 25-29, 33-37, 118; Table 3-1; reference B: "How speech

recognition works", Page 57; "Increasing Vocabulary", Page 63).


NaturallySpeaking does not expressly teach that the feedback obtained from the

selected persons use of the product comprises the person's *satisfaction* with the

product as claimed.

Official notice is taken that is a very common and typical business practice to

obtain one or more person's feedback related to their use of a product and to use that

feedback (e.g. in the form of a testimonial) to promote the use of the product wherein

such endorsements/testimonials can positively impact the sales and/or perception (e.g.

brand) of the promoted product/service.

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for adapting an automatic speech recognition software

product as taught by NaturallySpeaking would have benefited from using one or more

person's feedback related to the person's satisfaction with the ASR product in view of

the teachings of official notice; the resultant method providing potential

customers/consumers with the high profile person's positive experiences with the

product/service (testimonials) thereby influencing the consumer's intent to purchase.

Regarding Claim 9 NaturallySpeaking teaches a method for adapting an

automatic speech recognition software product further comprising tracking data and

feedback data associated product with a selected person as discussed above.

While NaturallySpeaking teaches the marketing/promoting of the automatic

speech recognition product (i.e. implicit in the commercial sale of the product)

NaturallySpeaking is silent on the method used to market/promote the automatic

speech recognition product and subsequently does not expressly teach incorporating

the selected person's feedback data into an advertisement or advertising the product as claimed.

Official notice is taken that is a very common and typical business practice to obtain one or more person's feedback related to their use of a product and to use that feedback (e.g. in the form of a testimonial) to promote the use of the product wherein such endorsements/testimonials can positively impact the sales and/or perception (e.g. brand) of the promoted product/service.

It would have been obvious to one skilled in the art at the time of the invention that the system and method for adapting an automatic speech recognition software product as taught by NaturallySpeaking would have benefited from using one or more person's feedback related to the person's satisfaction with the ASR product in view of the teachings of official notice; the resultant method providing potential customers/consumers with the high profile person's positive experiences with the product/service (testimonials) thereby influencing the consumer's intent to purchase.

14.     Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dragon

System's NaturallySpeaking product as evidenced by at least the following:

I. Kay et al., Dragon NaturallySpeaking for Dummies (October 1999), herein

after reference A; and

II. Adler, Alan, Speech Recognition Software, Round II (December 1998/January

1999), herein after reference B

in view of Miciak, et al., Choosing Celebrity Endorsers (Winter 1994) as applied

to claims 1-9 and further in view of Durham, Deborah, How to get the biggest bang out

of your next spokesperson campaign (1997).


Regarding Claim 10 the combination of NaturallySpeaking and Miciak et al. teach

a method/system for adapting an automatic speech recognition software product and

promoting the adapted ASR product as discussed above.

NatrurallySpeaking further teaches that the method for adapting an automatic

speech recognition software product further comprises:  support for multiple users

(user/personal files; reference A:  Pages 299-301; reference B: Column 2, Paragraph 2,

Page 56) as well as scanning (searching, viewing, accessing, reviewing, etc.) available

material for finding a information associated with a person having an entry in the system

(person database, user/person files, etc.; e.g. vocabulary builder) and updating the

personal files by adding the found data (reference A: Pages 25-29, 33-37, 118; Table 3-

1; reference B:  "How speech recognition works", Page 57; "Increasing Vocabulary",

Page 63).

NaturallySpeaking does not expressly teach finding a *name* of a person by scanning scanned *publicly* available material, updating the person files by adding a found name of a person not entered in the person database or updating the person database by adding data associated with a person having data stored in the database as claimed.

Durham teaches finding a name of a person by scanning publicly available material (Bullet 3, Page 1; Paragraphs 1-4, and Last Paragraph, Page 2), updating the person files by adding a found name of a person not entered in the person list and updating the person list by adding data associated with a person, in an analogous art of promoting/advertising a product/service for the purposes of maximizing the effectiveness of the selected high profile's person promotion of the selected product (Title; Paragraphs 1-3, Page 1).

Durham further teaches a method for promoting the use of one or more selected products/services using one or more high profile persons (spokespersons, celebrities, etc.) comprising:

- identifying, researching, selecting and recommending one or more high profile persons to promote/endorse one or more selected products/services (Bullet 3, Page 1; Paragraphs 1-4, Last Paragraph, Page 2);

- utilizing high profile person lists, talent agents, spokesperson networks and the like to identify, contact and utilizing HPP for promoting/endorsing one or more selected products/services (Paragraph 2, Page 1; Last Paragraph, Page 6).

- maintaining up-to-date high profile person contact information for the purposes of contacting the HPP to asses their interest in promoting/endorsing a selected product/service (Paragraph 2, Page 1);

- incorporating feedback from the selected high profile person into the advertisement/promotion (second to last Paragraph, Page 3); and

- negotiating endorsement/promotional contracts and compensating HPP for endorsing/promoting the one or more selected products (Paragraph 6, Page 3; Bullets 1-4, Page 3).

It would have been obvious to one skilled in the art at the time of the invention that the system/method for adapting an automatic speech recognition product and promoting an ASR as taught by the combination of NaturallySpeaking and Miciak et al. would have benefited from scanning publicly available material to identify potential high profile persons to promote the ASR product as well as updating information/data on high profile persons' already identified as potential promotional/endorsement candidates in view of the teachings of Durham the resultant system/method maximizing the effectiveness of the selected high profile's person promotion of the selected product (Durham: Title; Paragraphs 1-3, Page 1).

15.     Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Dragon System's NaturallySpeaking product as evidenced by at least the following:

        I.  Kay et al., Dragon NaturallySpeaking for Dummies (October 1999), herein

after reference A; and

        II. Adler, Alan, Speech Recognition Software, Round II (December 1998/January

1999)

        in view of Miciak, et al., Choosing Celebrity Endorsers (Winter 1994).


        Regarding Claim 11 NaturallySpeaking teaches a commercially available system

and method for adapting (training, enrolling, initializing, etc.) an automatic speech

recognition system (product) having an adaptation module the system/method

comprising:

        - storing data associated with at least one person and including instructions for

accessing sample data associated with the at least one person (accessing data, help

files, tutorial, how to, manual, instructions, computer code, etc.; reference A:  Pages

111-112; Paragraph 4, Page 114; reference B: Column 2, Paragraph 2, Page 56;

Column 3, Paragraph 1, Page 62);

        - a server (subsystem, processor, computer, desktop, laptop, etc.) for:

        - accessing data associated with a selected person (reference A:  Pages 25-29,

33-37; reference B:  Column 1, Paragraph 2, Page 57; Page 62; Figure 3);

        - determining whether a selected product is an automatic speech recognition

product (this is inherent in the persons decision to use the Dragon Naturally Speaking

product to transcribe speech and/or perform other voice recognition tasks/activities; i.e. they selected/purchased because it is an ASR product);

– using the accessing data to access the sample data for the selected person and adapting (training, configuring, etc.) the product for the selected person by using the sample data for the selected person to adapt (train, configure, etc.) the product to the selected person via the adaptation module (code, subsystem, program, etc.; reference A: Pages 25-29, 33-37, 118; Table 3-1; reference B: Column 1, Paragraph 2, Page 57; Pages 62-63; Figure 8).

NaturallySpeaking does not expressly teach utilizing a database to store the plurality of person data.

Official notice is taken that utilizing a database is an old and well-known method/approach for automating the storage, access/retrieval and utilization of electronic data as well as provides a convenient mechanism for accessing stored information.

It would have been obvious to a person of ordinary still in the art at the time of the invention that the system/method for adapting and promoting the use of an automatic speech recognition product as taught by NaturallySpeaking would have benefited from utilizing a database to store the already electronically stored ASR data the resultant system providing a more robust mechanism for capturing, store and/or

accessing/retrieving the data, which is purely known, and an expected result from automation of what is known in the art.

Further it is noted that it was known at the time of the invention that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). For example, simply utilizing a database to store the ASR product information merely provides a more automatic/systematic mechanism for storing, retrieving and utilizing the already electronically available data and gives you just what you would expect from the storing the data electronically as shown in NaturallySpeaking. In other words there is no enhancement found in the claimed step. The claimed step of storing the data in a database only provides another mechanism/approach to access the already electronically available data. The end result is the same as compared to the method taught by NaturallySpeaking. A database can simply provide a more robust mechanism of accessing/retrieving and/or utilizing the ASR data. The result is the same.

While NaturallySpeaking teaches the marketing/promoting of the automatic speech recognition product (i.e. implicit in the commercial sale of the product) NaturallySpeaking is silent on the method used to market/promote the automatic speech recognition product and subsequently does not expressly teach selecting a person for promoting the product as claimed.

Miciak et al. teach selecting a person to promote a selected product/service, in

an analogous art product promotion/marketing for the purposes of contributing to the

success of the product/service (Paragraph 2, Page 1; Paragraph 4, Page 9).

Miciak et al. further teach a method for promoting the use of a product

comprising:

- researching, identifying, listing and selecting, using one or more selection

criteria, one or more high profile persons for promoting/endorsing one or more selected

products/services (Paragraph 2, Page 1; Last Paragraph, Page 3; Paragraphs 2, 4-8,

Bullets 1-5, Page 4; Paragraph 7, Page 8);

- capturing and using the selection high profile person's feedback in an

advertisement for the selected product (e.g. testimonials; Pargraph 6, Page 2;

Paragraph 7, Page 6); and

- compensating endorsers for their promotion of the product/service (hire,

acquire, contract, etc.; Paragraph 7, Page 2; Paragraph 6, Page 5; Paragraph 4, Page

7).

It would have been obvious to one skilled in the art at the time of the invention

that the method for method for adapting an automatic speech recognition software

product as taught by NaturallySpeaking would have benefited from employing any of a

plurality of methods/systems to market/promote the use of the commercial ASR product

including but not limited to using celebrity endorsements/testimonials to promote the

use of the ASR product in view of the teachings of Miciak et al.; the resultant method

assisting in promoting the sale of the ASR product, which is purely known, and an

expected result from celebrity endorsements of what is known in the art (Miciak et al.:

Paragraph 2, Page 1; Paragraph 4, Page 9).


Regarding Claim 12 NaturallySpeaking teaches a commercially available system

and method for adapting an automatic speech recognition system wherein the sample

data is stored in association with the selected person (reference A: Pages 25-29, 33-37,

118; Table 3-1; reference B: Column 2, Paragraph 2, Page 56; Column 3, Paragraph 1,

Page 62).


Regarding Claim 13 NaturallySpeaking teaches a commercially available system

and method for adapting an automatic speech recognition system wherein the system

(server):

- accessing product data includes instructions for using the product and adapting

the product to a user (quick tour, tutorial, how to, manual, user guide, etc.; reference A:

Pages 38-39, 299-301; reference B: Column 1, Paragraphs 3-5, Page 58); and

- retrieves product data associated with a product and uses the instructions

(code, routine, macro, script, etc.) included in the associated product data to adapt the

selected product to the person (computer code/instructions, quick tour, tutorial, how to,

manual, user guide, etc.; reference A: Pages 38-39, 299-301; reference B: Column 1,

Paragraphs 3-5, Page 58).

While NaturallySpeaking teaches electronically storing and providing access to a plurality of product information wherein the product data/information includes instructions for using and adapting (enrolling, training, initializing, refining, correcting, etc.) the product for the selected user NaturallySpeaking does not expressly teach that the product information is stored in a product database or promoting the product as claimed.

Official notice is taken that utilizing a database is an old and well-known method/approach to automating the storage, access/retrieval and utilization of electronic data.

It would have been obvious to a person of ordinary still in the art at the time of the invention that the system/method for adapting and promoting the use of an automatic speech recognition product as taught by NaturallySpeaking would have benefited from utilizing a database to store the already electronically stored ASR data the resultant system providing a more robust mechanism for capturing, store and/or accessing/retrieving the data, which is purely known, and an expected result from automation of what is known in the art.

Miciak et al. teach selecting a product/service and a person to promote the

selected product/service, analogous art product promotion/marketing for the purposes

of contributing to the success of the product/service as discussed above.

It would have been obvious to one skilled in the art at the time of the invention

that the method for method for adapting an automatic speech recognition software

product as taught by NaturallySpeaking would have benefited from employing any of a

plurality of methods/systems to market/promote the use of the commercial ASR product

including but not limited to using celebrity endorsements/testimonials to promote the

use of the ASR product in view of the teachings of Miciak et al.; the resultant method

assisting in promoting the sale of the ASR product, which is purely known, and an

expected result from celebrity endorsements of what is known in the art (Miciak et al.:

Paragraph 2, Page 1; Paragraph 3, Page 2; Paragraph 4, Page 9).

Regarding Claim 14 NaturallySpeaking teaches a commercially available system

and method for adapting an automatic speech recognition system wherein the system

(server) further comprises a user interface (reference A: Figure 2-2; reference B: Figure

3).

NaturallySpeaking does not expressly teach utilizing the product/system's

graphical user interface to enable an operator to select at least one product for

promotion and a person for promoting the selected product as claimed.

Miciak et al. teach selecting a product/service and a person to promote the selected product/service, in an analogous art product promotion/marketing for the purposes of contributing to the success of the product/service as discussed above.

It would have been obvious to one skilled in the art at the time of the invention that the method for method for adapting an automatic speech recognition software product as taught by NaturallySpeaking would have benefited from employing any of a plurality of methods/systems to market/promote the use of the commercial ASR product including but not limited to using celebrity endorsements/testimonials to promote the use of the ASR product in view of the teachings of Miciak et al.; the resultant method assisting in promoting the sale of the ASR product, which is purely known, and an expected result from celebrity endorsements of what is known in the art (Miciak et al.: Paragraph 2, Page 1; Paragraph 4, Page 9).

Furrher it was known at the time of the invention that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). For example, simply automating the step of selecting a product to promote and a person to promote a product, by providing a graphical user interface, gives you just what you would expect from the manual steps as shown by the system/method for adapting and promoting an automatic speech recognition product as

taught by the combination of NaturallySpeaking and Miciak et al.. In other words there is no enhancement found in the claimed step. The claimed step of enabling a user to select a product to promote and a person to promote the product via graphical user interface only automates the manual activity. The end result is the same as compared to the manual method. A graphical user interface simply provides a simpler mechanism for selecting the product and/or person. The result is the same.

It would have been obvious to a person of ordinary still in the art at the time of the invention to automate the steps of selecting a product to promote and a person to promote the selected product via graphical user interface because this would provide a convenient mechanism for selecting the data and/or interacting with the system/method, which is purely known, and an expected result from automation of what is known in the art.

Regarding Claim 15 NaturallySpeaking teaches a commercially available system and method for adapting an automatic speech recognition system wherein the data associated with the at least one person further comprises contact data (i.e. the user name assigned to the personal files) wherein the contact information is used to make the adapted product available to at least one person (user selects/enters their username at the start of their session with the ASR; reference A:  Bullet 1, Page 25; Pages 299-301; reference B:  Column 2, Paragraph 2, Page 56).

Regarding Claim 16 NaturallySpeaking teaches a commercially available system and method for adapting an automatic speech recognition system wherein the (accessing) data further comprising recording instrumentation data for providing instructions to one of a device and an operator (user) of a device for recording sample data, and wherein the system (server) uses the recording instrumentation data for providing instructions to one of a device and an operator of a device for recording sample data (reference A: Pages 38-39, 299-301; reference B: Column 1, Paragraphs 3-5, Page 58).

Regarding Claim 17 NaturallySpeaking teaches a commercially available system and method for adapting an automatic speech recognition system to a selected person wherein the data associated with at least one person includes associated persons data including (accessing) data for accessing sample data associated with the at least one associated data wherein the system (server) uses the associated person sample data to adapt the product to the at least one associated person (Moby, vocabulary builder, etc.; reference A: Pages 25-29, 33-37, 118, 240; Paragraphs 2-3; Bullets 1-7, Page 246; Page 245;Table 3-1; reference B: Column 1, Paragraph 2, Page 57; Pages 62-63; Figure 8).

16.    Claim 18 is are rejected under 35 U.S.C. 103(a) as being unpatentable over

Dragon System's NaturallySpeaking product as evidenced by at least the following:

I. Kay et al., Dragon NaturallySpeaking for Dummies (October 1999), herein

after reference A; and

II. Adler, Alan, Speech Recognition Software, Round II (December 1998/January

1999), herein after reference B

in view of Miciak et al., Choosing Celebrity Endorsers (Winter 1994) as applied to claims

11-17 above and further in view of Durham, Deborah, How to get the biggest bang out

of your next spokesperson campaign (1997).


Regarding Claim 18 NaturallySpeaking teaches a commercially available system

and method for adapting an automatic speech recognition system further comprising a

person update module (code, program, software, routine, script, subsystem, etc.)

wherein the subsystem scans (reviews, searches, views, retrieves, etc.) available

information for information related to selected persons and enters the fond information

into the personal files associated with the selected person.

Further the combination of NaturallySpeaking and Miciak et al. teaches a

method/system for adapting an automatic speech recognition software product and

promoting the adapted product as discussed above.


NaturallySpeaking does not expressly teach finding a *name* of a person by

scanning scanned *publicly* available material, updating the person files by adding a

found name of a person not entered in the person database or updating the person

database by adding data associated with a person having data stored in the database

as claimed.

Durham teaches finding a name of a person by scanning publicly available

material (Bullet 3, Page 1; Paragraphs 1-4, and Last Paragraph, Page 2), updating the

person files by adding a found name of a person not entered in the person list and

updating the person list by adding data associated with a person, in an analogous art of

promoting/advertising a product/service for the purposes of maximizing the

effectiveness of the selected high profile's person promotion of the selected product

(Title; Paragraphs 1-3, Page 1).

It would have been obvious to one skilled in the art at the time of the invention

that the system/method for adapting an automatic speech recognition product and

promoting an ASR as taught by the combination of NaturallySpeaking and Miciak et al.

would have benefited from scanning publicly available material to identify potential high

profile persons to promote the ASR product as well as updating information/data on

high profile persons' already identified as potential promotional/endorsement candidates

in view of the teachings of Durham the resultant system/method maximizing the

effectiveness of the selected high profile's person promotion of the selected product

(Durham: Title; Paragraphs 1-3, Page 1).

17.    Claim 19 is are rejected under 35 U.S.C. 103(a) as being unpatentable over

Miciak et al., Choosing Celebrity Endorsers (Winter 1994) in view of Dragon System's

NaturallySpeaking product as evidenced by at least the following:

I. Kay et al., Dragon NaturallySpeaking for Dummies (October 1999), herein

after reference A; and

II. Adler, Alan, Speech Recognition Software, Round II (December 1998/January

1999), herein after reference B.


Regarding Claim 19 Miciak et al. teach a method for promoting the use of a

selected product/service comprising:

- selecting a person from a list utilizing predetermined selection criteria

(Last Paragraph, Page 3; Bullets 1-5, Page 4; Paragraphs 2, 4-8, Page 8; Last

Paragraph, Page 9);

- adapting a promoted product and/or promotion utilizing data for the

selected person (Paragraph 3, Page 8);

- tracking the person's product usage (feedback, testimonial, etc.;

Paragraph 6, Page 6);

- providing the promoted product to the person, prior to promoting the

product, for at least the person's approval or use (Paragraph 6, Page 6);

- negotiating an endorsement agreement with the selected person, if the

person is satisfied with the product (Paragraph 7, Page 2; Paragraph 6, Page 5;

Paragraph 4, Page 7; Paragraph 4, Page 9); and

- promoting the selected person's use of the product using information

collected about the person (Paragraph 6, Page 2).


While Miciak et al. teach selecting a person from a list Miciak et al. is silent on

storage/access mechanism used to create and/or maintain the list (spreadsheet,

database, text file, etc.) and subsequently does not expressly teach utilizing a database

to store the list of high profile persons as claimed.


Official notice is taken that utilizing a database is an old and well-known

method/approach to automating the storage, access/retrieval and utilization of electronic

data as well as provides a convenient mechanism for accessing stored information.


It would have been obvious to a person of ordinary still in the art at the time of

the invention that the system/method for adapting and promoting the use of an

automatic speech recognition product as taught by NaturallySpeaking would have

benefited from utilizing a database to store the already electronically stored ASR data

the resultant system providing a more robust mechanism for capturing, store and/or

accessing/retrieving the data, which is purely known, and an expected result from

automation of what is known in the art.


Further it is noted that it was known at the time of the invention that merely

providing an automatic means to replace a manual activity which accomplishes the

same result is not sufficient to distinguish over the prior art, In re Venner, 262 F.2d 91,

95, 120 USPQ 193, 194 (CCPA 1958). For example, simply utilizing a database to store

the list of high profile persons (celebrities, spokespersons, etc.) merely provides a more

automatic/systematic mechanism for storing, retrieving and utilizing the already

available list and gives you just what you would expect as shown in Miciak et al.. In

other words there is no enhancement found in the claimed step. The claimed step of

selecting a person from a database provides another mechanism/approach to

access/select a high profile person for the list of Miciak et al.  The end result is the same

as compared to the method taught by Miciak et al.. A database can simply provide a

more robust mechanism of accessing/retrieving and/or utilizing the list of high profile

persons. The result is the same.


Miciak et al. does not expressly teach limiting the intended filed of use of the

promotional/advertising method to automatic recognition software products as claimed.


NaturallySpeaking teaches promoting/marketing/selling an automatic speech

recognition product as discussed above.


It would have been obvious to one skilled in the art at the time of the invention

that the system and method for promoting the use of one or more products using one or

more selected high profile persons would have been utilized to promote any of a myriad

of products/services including but not limited to an automatic speech recognition

product in view of the teachings of NaturallySpeaking; the resultant method assisting in

promoting the sale of the ASR product, which is purely known, and an expected result

from celebrity endorsements of what is known in the art (Miciak et al.: Paragraph 2,

Page 1; Paragraph 4, Page 9).


Further it is noted that the phrases "software product" and "automatic speech

recognition product" merely represent non-functional descriptive material and are not

functionally involved in the steps recited nor do they alter the recited structural

elements. The recited method steps would be performed the same regardless of the

specific product type to be promoted. Further, the structural elements remain the same

regardless of the specific product type to be promoted. Thus, this descriptive material

will not distinguish the claimed invention from the prior art in terms of patentability, see

In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry,

32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Glaser, Lawrence, WO/0055781 (2000), teach a system and method for promoting the use of a software product having an adaptation module wherein a person is selected and compensated for promoting (endorsing, providing testimonials, etc.) the product.

- Dougherty, Philip, Advertising M*A*S*H Reunion for I.B.M. (1987) teach the promotion of selected IBM software/hardware product(s) by compensated celebrity endorsers.

- McCracken, Grant, Who is the Celebrity Endorser? (1989) teaches the old and very well known promotion of products/services using high profile persons (HPP, e.g. celebrities). McCracken further teaches several well known types of HPP endorsements including but not limited to an implicit mode (e.g. "I use this product" )as well teaches a method for selecting high profile persons to promote the selected product from a "pool" and/or "roster" of HPPs wherein the selected HPP(s) are contacted, contracted/signed and compensated for endorsing the selected product/service.

- Ohanian, Roobina, Construction and Validation of a Scale to Measure Celebrity (1990) teaches the well known utilization of celebrity endorsements and testimonial advertising. Ohanian further teaches one or more selection criteria for selecting/identifying "an appropriate spokesperson" wherein the selection process includes generating "an appropriate list of personalities."

- Warneford, Penny, IBM strategy (1994) teaches the utilization of a celebrity

endorser to promote the use of a selected IBM software/hardware product.

- Johnson, Roy S., The Jordan Effect (1998) teaches the use of a selected high

profile person to promote the use of one or more selected products/services some of

which used and/or adapted for use and used by the HPP (e.g. shoes, athletic ware, etc.;

"Who's my designer?"). Johnson further teaches the value such celebrity endorsements

bring to the selected products/services that they endorse.

- Computer recognized speech (1998) teaches the evolution, from Carnegie

Mellon to IBM and eventually Dragon Systems, of a commercial available automatic

speech recognition product known as Dragon NaturallySpeaking.

- Till, Brian D., Using celebrity endorsers effectively (1998) teaches the

"widespread" utilization of high profile persons to promote the use of a plurality of

products/services. Till further teaches the basic method steps used in selecting and

utilizing a celebrity endorser including but not limited to: researching and identifying

products/celebrities for promotional advertising, negotiating long-term

contracts/agreements and showing the celebrity's product use as part of an

advertisement.

- Erdogan, Zafer B. et al., Celebrity Endorsement (1999) teach the well known

utilization of celebrity endorsements as well as the typical/common business practices

utilized by advertising agency managers when planning and executing celebrity

endorsement advertising/marketing effort/campaign. Erdogan et al. further teach the

importance of the celebrities' product/service use ("making sure a celebrity endorsing a

brand actually uses the brand as well.") as part of the advertisement/promotion and that advertisers either select a product to be promoted and then generate a list of potential/candidate celebrities or vice versa.

- Schmidt, Steve, Now hear this (1999) teaches the commercial availability and public use of a plurality of automatic speech recognition programs (products, software, etc.) wherein each of the ASR's comprise an adaptation module that utilizes personal information and sample data to adapt/train the product to the person using it. Schmidt further teaches that the ASRs product may be used and/or adapted by persons other than the person for whom the product is adapted (e.g. a transcriptionist/secretary using the product to transcribe audio files generated by his/her boss).

- Smedman, Lorna, Brave new yakety-yak (1999) teaches the commercial availability and public use of a plurality of automatic speech recognition products/systems each comprising an adaptation module for adapting the product to a selected person. Smedman further teaches promoting the use of ASRs using television commercials.

- Lefton, Terry, Rebooting sponsorships (2000) teaches the promotion of selected software/hardware products/systems (e.g. IBM OS/2) utilizing high profile persons wherein the promotions show the high profile person's use as well as satisfaction with the product.

- Heim, Sarah, Winning Combo (2000) teaches the promotion of the use of a software/hardware product/system by a high profile person wherein the high profile
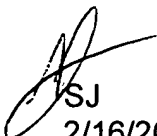
person's endorsement of the product includes details on the high profile person's use as well as satisfaction with the promoted product.

- Spokespersons.com Web Pages (1998/1999) teaches the commercially availability of a list (database) of high profile persons that is utilized by companies/entities seeking to promote the use of their product/service with high profile persons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/SJ
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